

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<p>In re:</p> <p>NATIONAL FORGE COMPANY, <i>et al.</i>,</p> <p style="text-align: center;">Debtor.</p> <p>-----</p> <p>OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF NATIONAL FORGE COMPANY,</p> <p style="text-align: center;">Plaintiff,</p> <p>and</p> <p>OFFICIAL COMMITTEE OF RETIREES OF NATIONAL FORGE COMPANY,</p> <p style="text-align: center;">Intervenors,</p> <p>v.</p> <p>E. ROGER CLARK, both Individually and as an Officer and Director of National Forge Company, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p> <hr/>	<p>Civil No. 04-21 Erie</p>
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MOTION PURSUANT TO FED.R.CIV. P. 12(b)(6) and 56
OF DEFENDANTS DANIEL ANTOS, WILLIAM D. BAILEY, RICHARD A. BREWSTER,
JAMES E. CALDWELL, LARRY CAMPBELL, JAMES C. CONFER, RICHARD
D’ALESSANDRO, DONALD FISSEL, JAMES B. HARRIS, THOMAS H. JACKSON,
ASHOK K. KHARE, CARL J. LUPPINO, CLARENCE E. MASON, HAROLD MURPHY,
PHILIP R. NOVOSEL, CHARLES R. OLSON, JAMES D. RUHLMAN, PHILLIP R. SIMONS,
GLENN E. TURK, RONALD L. YOUNG AND BARRY ZISCHKAU

Defendants Daniel Antos, William D. Bailey, Richard A. Brewster, James E. Caldwell, Larry Campbell, James C. Confer, Richard D’Alessandro, Donald Fissel, James B. Harris, Thomas H. Jackson, Ashok K. Khare, Carl J. Luppino, Clarence E. Mason, Harold Murphy, Philip R. Novosel, Charles R. Olson, James D. Ruhlman, Phillip R. Simons, Glenn E. Turk, Ronald L. Young and Barry Zischkau (the “Transferee Defendants”), hereby move, pursuant to Fed. R. Civ. P. 12(b)(6) and Fed. R. Civ. P. 56, for entry of an Order granting them

summary judgment on the grounds that the causes of action alleged by the Plaintiffs in Counts I, II, III and VII are barred by Bankruptcy Code §546(e), that those causes of action alleged in Counts IV and V and VI are untimely, and that the cause of action alleged in Count VIII be dismissed as to the Transferee Defendants. All arguments set forth in the Opening Brief and Appendix filed by Defendants E. Roger Clark, Maurice J. Cashman, Dana Beyeler and Robert A. Kaemmerer to the Amended Complaint are adopted by the Transferee Defendants to the extent applicable.

Dated: September 26, 2005

Respectfully submitted,

THE McDONALD GROUP, L.L.P.

By: /s/ James D. McDonald, Jr.
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CERTIFICATE OF SERVICE

I, James D. McDonald, Jr. do hereby certify that a true and correct copy of the foregoing Motion Pursuant to Fed. R. CIV. P. 12 (b)(6) and 56 was served by first class United States mail, postage prepaid, on this 27th day of September, 2005 upon each of the parties listed below:

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